

**United States District Court
for the Northern District of New York**

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**
(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Carlos Davila

Case Number: 5:01-CR-00513-001

Name of Sentencing Judicial Officer: Hon. Frederick J. Scullin, Jr., Chief U.S. District Judge

Date of Original Sentence: March 19, 2002

Original Offense: Distribution of Cocaine, 21 U.S.C. § 841(a)(1)

Original Sentence: 24 months incarceration, 6 years supervised release

Type of Supervision: Supervised release

Date Supervision Commenced: November 23, 2004

PETITIONING THE COURT

- [] To extend the term of supervision for years, for a total term of years.
[X] To modify the conditions of supervision as follows:

1. You shall reside for a period of 6 months in a community corrections center or other suitable facility and shall observe the rules of that facility.

CAUSE

On November 24, 2004, the offender's conditions of supervised release were reviewed with him by the U.S. Probation Office. He was advised that per his conditions, he shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician. He was enrolled in the random drug testing program and advised he must report for drug testing as directed.

On April 25, 2005, the offender tested positive for cocaine on an instant test. He admitted to "tasting" some cocaine he found on his teenage son to determine whether it was in fact cocaine. The sample was sent to the lab for confirmation and the results were negative for cocaine. The offender was referred to outpatient substance abuse treatment and continues in treatment to date.

On August 9, 2005, the offender tested positive for opiates. He admitted the use of heroin. The lab confirmed the sample was positive for morphine.

The offender failed to report for random drug testing as directed on April 17, 2005, July 25, 2005, and August 28, 2005. On September 12, 2005 the offender provided a sample that was diluted. He reported late for a random drug test on September 22, 2005, and then was unable to produce a sample to be tested.

On September 23, 2005, the offender tested positive for morphine. He denies using heroin or morphine, but states he took methadone from a friend, to keep himself from using heroin. He admits he has a strong temptation to use drugs.

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Conditions or Terms of Supervision
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The offender has been admitted into an inpatient treatment program at the Willows in Syracuse. In view of offender's positive drug tests and failures to report for drug testing as directed, this office respectfully requests the Court modify the conditions of supervised release to include six months in a community corrections center. The offender has agreed with this modification and has signed the Probation Form 49, Waiver of Hearing to Modify Conditions of Supervised Release, which is enclosed.

Respectfully submitted,

PAUL W. DeFELICE
Chief U.S. Probation OfficerApproved by: Timothy R. Keohane
Timothy R. Keohane
Supervising U.S. Probation Officer

by:

Rebecca L. Doyle
REBECCA L. DOYLE
U.S. Probation Officer
Date: 10-14-05**THE COURT ORDERS**

- ☐ No Action
☐ The Extension of Supervision as Noted Above
☒ **The Modification of Conditions as Noted Above**
☐ Other

Matthew J. Sullivan
Signature of Judicial Officer

Date

10/17/05

PROB 49
NNYrev.9/02

Waiver of Hearing to Modify Conditions
of Supervised Release or Extend Term of Supervision

**UNITED STATES DISTRICT COURT
for the
NORTHERN DISTRICT OF NEW YORK**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my conditions of Supervised Release or my period of supervision being extended. By 'assistance of counsel,' I understand that I have a right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the Court to appoint counsel to represent me at such hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. **I am fully aware this is only a proposal to the Court to address the alleged violation(s) and it is in no way binding upon the Court. The Court has the discretion to order a hearing which could result in a different sanction being imposed.** I agree to the following modification of my Conditions of Supervised Release or to the proposed extension of my term of supervision:

1. You shall reside for a period of 6 months in a community corrections center or other suitable facility and shall observe the rules of that facility.

Witness: Rebecca L. Doyle
U.S. Probation Officer

Signed: Carlos Davila
Supervised Releasee

Tatiana R. Kahan
Supervisor or Team Leader

10-14-05
Date